
HOUSE BILL No. 1587

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-8.

Synopsis: Expunging records of certain felony convictions. Allows a sentencing court to expunge the records of a felony conviction committed before a person was 21 years of age after the elapse of 20 years from the date the person was convicted.

Effective: July 1, 2003.

Summers

January 16, 2003, read first time and referred to Committee on Judiciary.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1587

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-38-8 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]:

4 **Chapter 8. Expungement of Conviction Records**

5 **Sec. 1. This chapter applies to records created as a result of**
6 **allegations that a person committed a felony before the person**
7 **became twenty-one (21) years of age.**

8 **Sec. 2. After the elapse of twenty (20) years after the person was**
9 **convicted of a felony, a person may petition a sentencing court at**
10 **any time to remove from the:**

11 **(1) court's files;**

12 **(2) files of law enforcement agencies;**

13 **(3) files of the department of correction; and**

14 **(4) files of any other person who has provided treatment or**
15 **services to a person under a court order;**

16 **those records pertaining to the person's involvement in criminal**
17 **court proceedings.**



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1 **Sec. 3. In considering whether to grant the petition, the court**
2 **may review any of the following:**

- 3 **(1) Whether the person has been rehabilitated to the court's**
4 **satisfaction.**
5 **(2) Any other mitigating factors, including the following:**
6 **(A) Job performance.**
7 **(B) Job retention.**
8 **(C) Community service.**

9 **Sec. 4. The court may not grant the petition if the person has**
10 **been convicted of any felony that the person committed after the**
11 **person became twenty (20) years of age.**

12 **Sec. 5. If the court grants the expungement petition, the court**
13 **shall do the following:**

- 14 **(1) Order each law enforcement agency and each person who**
15 **incarcerated, provided treatment for, or provided other**
16 **services for the person under an order of the court, including**
17 **the department of correction, to send the person's records to**
18 **the court.**
19 **(2) Seal any court records related to the allegation and any**
20 **proceeding related to the allegation.**
21 **(3) If an appeal was taken, notify the clerk of the supreme**
22 **court to seal any records in the clerk's possession concerning**
23 **the allegation or any proceeding related to the allegation.**

24 **Sec. 6. If the petition of a person is granted under this chapter,**
25 **information concerning the arrest or conviction may not be placed**
26 **or retained in the following:**

- 27 **(1) Any state central repository for criminal history**
28 **information.**
29 **(2) Any other alphabetically arranged criminal history**
30 **information system maintained by a local, regional, or**
31 **statewide law enforcement agency.**

32 **Sec. 7. If a petition is granted under this chapter, the records of:**

- 33 **(1) the sentencing court;**
34 **(2) the court of appeals; and**
35 **(3) the supreme court;**

36 **shall be permanently sealed. Other records may be destroyed or**
37 **given to the person to whom the records pertain.**

38 **Sec. 8. If a person whose records are expunged under this**
39 **chapter brings an action that might be defended with the contents**
40 **of the records, the defendant is presumed to have a complete**
41 **defense to the action. For the plaintiff to recover in an action, the**
42 **plaintiff must show that the contents of the expunged records**

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1 would not exonerate the defendant. The plaintiff may be required
2 to state under oath whether the plaintiff had records in the
3 criminal justice system and whether those records were expunged.
4 If the plaintiff denies the existence of the records, the defendant
5 may prove the existence of the records in any manner compatible
6 with the law of evidence.

7 Sec. 9. After a court orders a person's records to be expunged
8 under this chapter, the person shall be treated for all purposes as
9 if the person had not been arrested or convicted of the expunged
10 felony.

11 SECTION 2. [EFFECTIVE JULY 1, 2003] IC 35-38-8, as added
12 by this act, applies to all felonies regardless of when the offense was
13 committed.

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